

Message Text

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ORIGIN EB-08

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FM SECSTATE WASHDC
TO AMEMBASSY ROME IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, IT, US

SUBJECT: CIVAIR - DISCRIMINATION AT ROME AIRPORTS

1. FOLLOWING IS TEXT OF LETTER FROM SECRETARY OF TRANS-
PORTATION ADAMS TO SECRETARY OF TREASURY BLUMENTHAL,
DESCRIBED SEPTEL:

QUOTE: DEAR MR. SECRETARY

I AM WRITING TO YOU IN FURTHERANCE OF OUR JOINT RESPONSIBILITIES UNDER THE INTERNATIONAL AIR TRANSPORTATION FAIR COMPETITIVE PRACTICES ACT OF 1974 (FCPA), PUB. L. 93-632.

THAT STATUTE IS DESIGNED TO COMBAT SITUATIONS IN WHICH
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CHARGES ASSESSED AGAINST U.S. AIR CARRIERS FOR THE USE OF FOREIGN AIRPORT AND AIRWAY PROPERTY "UNREASONABLY EXCEED COMPARABLE CHARGES FOR FURNISHING SUCH AIRPORT PROPERTY OR AIRWAY PROPERTY IN THE UNITED STATES OR ARE OTHERWISE DISCRIMINATORY." IN ORDER TO INSURE THAT U.S. FLAG AIRLINES MAY COMPETE ON A FAIR AND EQUAL BASIS WITH FOREIGN-FLAG AIRLINES, THE STATUTE PROVIDES

FOR THE ELIMINATION OF DISCRIMINATORY CHARGES BY NEGOTIATION. SHOULD THAT FAIL, THE UNITED STATES MAY IMPOSE

COMPENSATORY CHARGES ON THE FOREIGN-FLAG OPERATORS. THE TREASURY DEPARTMENT IS THE AGENCY OF THE GOVERNMENT DESIGNATED TO IMPOSE AND COLLECT THOSE CHARGES.

PURSUANT TO THE PROVISIONS OF FCPA, I REQUEST THAT THE TREASURY DEPARTMENT BEGIN TO COLLECT COMPENSATORY CHARGES ON APRIL 1, 1977, FROM ALITALIA, THE NATIONAL FLAG CARRIER OF ITALY.

ALITALIA IS EXEMPT FROM PAYING LANDING FEES AT THE ROME AIRPORTS, DESPITE THE IMPOSITION BY THE ITALIAN GOVERNMENT OF SUCH LANDING FEES FOR AMERICAN CARRIERS. THIS IS IN VIOLATION OF ARTICLE 15 OF THE CHICAGO CONVENTION (61 STAT. 1180), WHICH REQUIRES THAT CHARGES BE UNIFORMLY APPLIED TO FOREIGN AND DOMESTIC CARRIERS IN INTERNATIONAL SERVICE, AND ALSO THE FCPA. AS A RESULT, ON MAY 3, 1976, THEN SECRETARY COLEMAN, AS REQUIRED BY FCPA, REPORTED TO THE SECRETARY OF STATE AND THE CHAIRMAN OF THE CIVIL AERONAUTICS BOARD THAT ITALY WAS IN VIOLATION OF THE FCPA.

EXHAUSTIVE EFFORTS HAVE BEEN MADE TO RESOLVE THE COMPETITIVE DISCRIMINATION BY NEGOTIATION THROUGH THE U.S. EMBASSY IN ROME AND UNDER THE TERMS OF THE BILATERAL AIR TRANSPORT AGREEMENT. THE MATTER WAS MOST RECENTLY DISCUSSED WITH REPRESENTATIVES OF THE ITALIAN GOVERNMENT LIMITED OFFICIAL USE

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IN JANUARY 1977. IT HAS NOT BEEN RESOLVED THROUGH NEGOTIATIONS. I AM CONVINCED, THEREFORE, THAT OUR ONLY RECOURSE AT THIS TIME IS TO IMPLEMENT COMPENSATORY CHARGES.

I WOULD ALSO POINT OUT THAT THE ITALIAN GOVERNMENT CONTENTS IT IS ATTEMPTING TO RESOLVE THIS PROBLEM IN ITS OWN COURTS. HOWEVER, THE SUIT HAS BEEN PENDING SINCE 1974, THE GOVERNMENT OWNS ALITALIA AND HAS HAD LITTLE INCENTIVE TO MOVE TO A SPEEDY RESOLUTION OF THE CASE, AND ALITALIA HAS JUST ANNOUNCED ITS INTENTION TO APPEAL AN ADVERSE DECISION REQUIRING IT TO PAY THE LANDING FEES. UNDER THE CIRCUMSTANCES, THE UNITED STATES GOVERNMENT MUST PROCEED TO ENFORCE ITS OWN STATUTES AND THE PROVISIONS OF INTERNATIONAL LAW. PROBLEMS OF ITALIAN DOMESTIC LAW DO NOT EXCUSE THE FAILURE TO REMEDY THE LONG STANDING DISCRIMINATION.

PURSUANT TO SECTION 3 OF THE FCPA, AND THE DOT REGULA-

TIONS, I HAVE DETERMINED THAT COMPENSATORY CHARGES SHOULD BE IMPOSED ON EACH ALITALIA DEPARTURE FROM THE UNITED STATES AT THE RATE OF 1,824 DOLLARS FOR EACH B-747 DEPARTURE, 1,459 DOLLARS FOR EACH DC-10 DEPARTURE

AND 912 DOLLARS FOR EACH DC-8 DEPARTURE. THESE CHARGES SHOULD BE COLLECTED AS A CONDITION TO ACCEPTANCE OF THE GENERAL DECLARATION BY THE TREASURY DEPARTMENT AT THE TIME OF LANDING OR TAKEOFF OF EACH ALITALIA FLIGHT.

THIS DETERMINATION IS SUBJECT TO THE CONCURRENCE OF THE SECRETARY OF STATE. A COPY OF MY LETTER HAS ACCORDINGLY BEEN SENT FOR HIS CONCURRENCE. SINCERELY, BROCK ADAMS.
END QUOTE.

2. FYI. STATEMENT THAT ALITALIA HAS ANNOUNCED INTENTION TO APPEAL WAS BASED ON DOT'S UNDERSTANDING PRIOR TO LIMITED OFFICIAL USE

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EMBASSY'S LATEST REPORTING. END FYI.
VANCE

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NNN

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